

Town of Amherst
Zoning Board of Appeals - Special Permit

DECISION

Applicant: Marjorie Day

Date application filed with the Town Clerk: December 20, 2005

Nature of request: To renew Special Permit FY81-50, under Section 5.014 of the Zoning Bylaw, to keep a horse in an R-N Zoning District and to have a shed for the horse

Address: 265 East Pleasant Street (Map 11B, Parcels 177 & 178, R-N Zoning District)

Legal notice: Published on January 11th and 18th in the Daily Hampshire Gazette and sent to abutters on January 9, 2006.

Board members: Tom Simpson, Ted Rising and Jane Ashby

Submissions: The petitioner submitted a drawing of the two parcels owned by the petitioner, the space where the horse is kept during the day, and a schedule of care for the horse.

Site Visit: January 24, 2006

The Board met with neighbor George Hawthorne at the site. The Board observed the following:

- The pasture owned by the applicant where the horse stays during the day.
- The shed for the horse, located at the southern end of the pasture
- The back lot line
- The Hawthorne's farm and barn next door where the horse is fed and stabled for the night.

Public Hearing: January 26, 2006

Board member Ted Rising stated that he has known the applicant Majorie Day and her husband for many years, but this will not influence his decision on the Special Permit application.

Ms. Day had indicated via letter to the Board that she would be in Oregon at the time of the hearing. Neighbor George Hawthorne represented Ms. Day at the hearing.

Mr. Hawthorne said that Ms. Day has kept a horse for many years at this location. The horse uses both the Day and Hawthorne properties. The Days own two parcels totaling 33,042 square feet, and the Hawthorne's own about 7 acres, most of which is pasture. The applicant's horse stays at the Day pasture during the day, then is fed and boarded at the Hawthorne barn overnight. Mr. Hawthorne boards other horses at his farm as well.

Previously Ms. Day had obtained Special Permits FY73-11, FY76-70 and FY81-50 for the horse. The FY81-50 Special Permit expired and had not been renewed until now.

Both the Day and Hawthorne pastures are open fields; both are private and well over 100 feet back from East Pleasant Street. The applicant did state in her submitted documents that her main parcel on which the house is located, Parcel #178, is now smaller than before by about 2,000 square feet. She sold that extra land to an abutter on Strong Street. It minimally affects the open space for the horse.

Mr. Rising made a motion to close the evidentiary portion of the hearing. Ms. Ashby seconded the motion, and the vote was unanimous to close the hearing.

Public Meeting:

Section 5.014 of the Zoning Bylaw allows for the "keeping of livestock" for use by residents of the premises via a Special Permit. Mr. Rising noted that the applicant takes good care of the horse and that the site is fenced, clean and has no accumulation of manure. However, if the property is sold, the new owner may have a different approach. The Board agreed that the Special Permit should expire if ownership of any part of the applicant's two parcels change. The Board also agreed that the permit should have a 5-year limit, since it is unknown what may happen to the adjacent Hawthorne land as well. Although both the applicant and the Hawthorne properties are large and can accommodate horses, they are located in an R-N district that can be developed for residential uses in the future.

Findings:

The Board finds under Section 10.38 of the Zoning Bylaw, Specific Findings required of all Special Permits, that:

10.380 & 10.381 – The proposal is suitably located in the neighborhood in which it is proposed because the applicant has a large open lot suitable for a horse, and the lot is located next to a farm with a barn where other horses are kept.

10.382, 10.383, 10.384, 10.385 & 10.387 – The proposal does not constitute a nuisance due to air or water pollution, noise, odor, and is not an inconvenience to abutters since the petitioner's back parcel, the horse's pasture is large and well back from the road. Adequate facilities are provided for the care of the horse, since the horse has both a shed and a barn for protection, the pasture is fenced, and an arrangement with the neighbors has been managed well for over 30 years.

10.389 – Adequate methods of disposal of the horse manure have been successful for the last 30 years, and will be a condition of this Special Permit.

10.291 & 10.393 – The proposal protects the scenic features of the property, since the pasture is left open and undeveloped for the horse. Plantings on the easterly boundary of the lot provide screening for the adjacent properties along Strong Street.

10.398 – The proposal is in harmony with the general purpose and intent of the Zoning Bylaw since the horse provides a recreational balance for the applicant in this residential neighborhood. The existence of a horse and open pasture close to the downtown business district is a visual asset as well to pedestrian and vehicular traffic along East Pleasant Street.

Zoning Board Decision:

Mr. Rising made a motion to APPROVE the application, with conditions. Ms. Ashby seconded the motion.

For all of the reasons stated above, the Board VOTED unanimously to GRANT a Special Permit under Section 5.014 of the Zoning Bylaw to Marjorie Day to keep a horse and to have a shed for the horse on the premises at 265 East Pleasant Street (Map 11B/Parcel 177 & 178, R-N Zoning District), with conditions.

TOM SIMPSON TED RISING JANE ASHBY

FILED THIS _____ day of _____, 2006 at _____,
in the office of the Amherst Town Clerk _____.

TWENTY-DAY APPEAL period expires, _____ 2006.
NOTICE OF DECISION mailed this _____ day of _____, 2006
to the attached list of addresses by _____, for the Board.

NOTICE OF PERMIT or Variance filed this _____ day of _____, 2006,
in the Hampshire County Registry of Deeds.

Town of Amherst
Zoning Board of Appeals

SPECIAL PERMIT

The Amherst Zoning Board of Appeals hereby grants a Special Permit under Section 5.014 of the Zoning Bylaw to Marjorie Day to keep a horse and to have a shed for the horse on the premises at 265 East Pleasant Street (Map 11B/Parcels 177 & 178, R-N Zoning District), subject to the following conditions:

1. The manure shall be disposed of in an appropriate manner so that it does not accumulate on the premises.
2. The standards of cleanliness set by the Health Department continue to be maintained in the care of the horse.
3. The permit shall expire within five years of the date of issue or upon any change of ownership of either of the two parcels currently owned by the petitioner.

TOM SIMPSON, Chair
Amherst Zoning Board of Appeals

DATE